

REMARKS/ARGUMENTS

Claims 1–12 and 15–20 are pending in the captioned application.

The Examiner had previously rejected claims 1–11 and 13–20 (now claims 1–12 and 15–20) under the judicially created doctrine of obviousness-type double patenting as “being unpatentable over claims 1, 6-15, 20-22, 25, 28 and 29, of copending Application No. 10/478,910 in view of Maggio et al (Enzyme-Immunoassay, Department of Pathology, Scripps Clinic and Research Foundation, May 14, 1987)”.

In response, Applicants informed the Examiner that the Application No. 10/478,910 had been abandoned. The Examiner states, “In response, the application 10/478,910 is still active. Further, since applicant does not present any other arguments, the rejection is being maintained”.


In response, Applicants regret the misunderstanding and enclose herewith a copy of the “Express Abandonment Under 37 C.F.R. 1.138” which was sent via facsimile to the United States Patent and Trademark Office on August 15, 2005, formally abandoning Application Serial No. 10/478,910. Applicants respectfully request that the Examiner accept this evidence of the abandonment and withdraw the double-patenting rejection.

Appl. No. 09/863,786
Amendment dated September 1, 2005
Reply to Office action of June 1, 2005

Applicants maintain their arguments for all other rejections and plan to file an Appeal Brief to these rejections. Withdrawal of the double-patenting rejection, Applicants respectfully assert, will place the instant application in proper format for appeal. Thus, withdrawal is earnestly solicited.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on September 1, 2005.

Signature: 

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